

Montana Water Court
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FILED
05/09/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0651-R-2022
Lambert, Kathryn
9.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANTS: DePuy Enterprises LLC; Touch of Paradise LLC

CASE 43B-0651-R-2022

43B 190475-00

43B 190476-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Claim 43B 190475-00 appeared in the Preliminary Decree with the following issue remark:

EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

Claim 43B 190476-00 appeared in the Preliminary Decree with the following issue remarks:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. THE CLAIMED PLACE OF USE ABOVE THE RESERVOIRS ON TRAIL CREEK IS IN QUESTION.

EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. On November 14, 2022 DePuy Enterprises LLC and Touch of Paradise LLC filed Information To Resolve Issue Remarks. This includes a request to change the place of use for claim 43B 190475-00 which is not at issue. This is deemed a motion to amend claim 43B 190475-00 pursuant to section 85-2-233(6), MCA. On February 28, 2023 DePuy Enterprises LLC and Touch of Paradise LLC filed a Motion To Correct Point Of Diversion For 43B 190475-00. The settlement documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the "same set of operative facts as contained in the original pleading." *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-423 (1985). The requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).

Notice must be published by newspaper if the requested amendments "may adversely affect other water rights." Section 85-2-233(6)(a)(i), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. For claim 43B 190475-00, the change to place of use requested in the motion to amend arises out of the same conduct, transaction, or occurrence specified on the original Statement of Claim, is based on the same operative facts specified in the Statement of Claim, and merely makes more specific that which was already claimed on the original Statement of Claim.

2. For claim 43B 190475-00, the Preliminary Decree states that the point of diversion is:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SESESE	22	3S	9E	PARK

Reservoir: OFFSTREAM

SESESE	22	3S	9E	PARK
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The point of diversion should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>	
SESESE	22	3S	9E	PARK	DIVERSION DAM
NWNW	26	3S	9E	PARK	INSTREAM
E2NENE	27	3S	9E	PARK	INSTREAM
E2SESE	22	3S	9E	PARK	INSTREAM
E2NESE	22	3S	9E	PARK	INSTREAM
SWNENE	22	3S	9E	PARK	INSTREAM
W2SWSW	23	3S	9E	PARK	INSTREAM
W2NWSW	23	3S	9E	PARK	INSTREAM
SWNW	23	3S	9E	PARK	INSTREAM
NWNW	23	3S	9E	PARK	INSTREAM
SWSW	14	3S	9E	PARK	INSTREAM
W2SESW	14	3S	9E	PARK	INSTREAM
NESESW	14	3S	9E	PARK	INSTREAM

E2NWSW	14	3S	9E	PARK	INSTREAM
NESW	14	3S	9E	PARK	INSTREAM
W2NWSE	14	3S	9E	PARK	INSTREAM
E2SENW	14	3S	9E	PARK	INSTREAM
SWSENW	14	3S	9E	PARK	INSTREAM
W2SWNE	14	3S	9E	PARK	INSTREAM
SEWNNE	14	3S	9E	PARK	INSTREAM
E2NWE	14	3S	9E	PARK	INSTREAM
W2NENE	14	3S	9E	PARK	INSTREAM
SWSESE	11	3S	9E	PARK	INSTREAM
SESWSE	11	3S	9E	PARK	INSTREAM

Reservoir: OFFSTREAM

SWSESE	11	3S	9E	PARK
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Reservoir: OFFSTREAM

SEWNNE	14	3S	9E	PARK
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Reservoir: OFFSTREAM

NENESW	14	3S	9E	PARK
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Reservoir: OFFSTREAM

NWNESW	14	3S	9E	PARK
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Reservoir: OFFSTREAM

NENWSW	14	3S	9E	PARK
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Reservoir: OFFSTREAM

SWSWSW	14	3S	9E	PARK
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Reservoir: OFFSTREAM

SWNWSW	23	3S	9E	PARK
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Reservoir: OFFSTREAM

NWNWNW	26	3S	9E	PARK
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The issue remark concerning the existence of the reservoir should be removed as addressed and resolved.

The Preliminary Decree states that the place of use is:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NWNWNW	26	3S	9E	PARK
SWNWNW	26	3S	9E	PARK
SWSWSW	23	3S	9E	PARK
NWSWSW	23	3S	9E	PARK
SWNWSW	23	3S	9E	PARK
NWNWSW	23	3S	9E	PARK
SWSWNW	23	3S	9E	PARK
NWSWNW	23	3S	9E	PARK
SWNWNW	23	3S	9E	PARK

SENWNW	23	3S	9E	PARK
NWNWNW	23	3S	9E	PARK
SESESE	22	3S	9E	PARK
NESESE	22	3S	9E	PARK
SENESE	22	3S	9E	PARK
NENESE	22	3S	9E	PARK
NESENE	22	3S	9E	PARK
SESENE	22	3S	9E	PARK
NENENE	22	3S	9E	PARK
SENENE	22	3S	9E	PARK
SWSW	14	3S	9E	PARK
W2SESW	14	3S	9E	PARK
NWSW	14	3S	9E	PARK
NESW	14	3S	9E	PARK
E2SWNW	14	3S	9E	PARK
SENW	14	3S	9E	PARK
NENW	14	3S	9E	PARK
SWNE	14	3S	9E	PARK
NWNE	14	3S	9E	PARK
W2NENE	14	3S	9E	PARK
SESWSE	11	3S	9E	PARK
NESWNE	11	3S	9E	PARK
NWSESE	11	3S	9E	PARK
SWSESE	11	3S	9E	PARK

The place of use should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NWNW	26	3S	9E	PARK
E2NENE	27	3S	9E	PARK
E2SESE	22	3S	9E	PARK
E2NESE	22	3S	9E	PARK
SWNENE	22	3S	9E	PARK
W2SWSW	23	3S	9E	PARK
W2NWSW	23	3S	9E	PARK
SWNW	23	3S	9E	PARK
NWNW	23	3S	9E	PARK
SWSW	14	3S	9E	PARK
W2SESW	14	3S	9E	PARK
NESESW	14	3S	9E	PARK
E2NWSW	14	3S	9E	PARK
NESW	14	3S	9E	PARK
W2NWSE	14	3S	9E	PARK
E2SENW	14	3S	9E	PARK

SWSENW	14	3S	9E	PARK
W2SWNE	14	3S	9E	PARK
SEWNNE	14	3S	9E	PARK
E2NWNE	14	3S	9E	PARK
W2NENE	14	3S	9E	PARK
SWSESE	11	3S	9E	PARK
SESWSE	11	3S	9E	PARK

The Preliminary Decree also includes the following notice remarks on the abstract of this claim:

THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM CANNOT BE DETERMINED AND THE FLOW RATE REMAINS AS ORIGINALLY CLAIMED. THE CLAIMED FLOW RATE CAN BE CONTESTED BY PROPER OBJECTION. IF NO OBJECTIONS ARE FILED TO THIS CLAIM THE FLOW RATE WILL BE DECREED AS CLAIMED, AND THIS REMARK WILL BE REMOVED FROM THE CLAIM.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

CLAIMED VOLUME EXCEEDS CAPACITY OF RESERVOIR PLUS EVAPORATIVE LOSSES. THE CLAIMED VOLUME CAN BE CONTESTED BY PROPER OBJECTION. IF NO OBJECTIONS ARE FILED TO THIS CLAIM THE VOLUME WILL BE DECREED AS CLAIMED, AND THIS REMARK WILL BE REMOVED FROM THE CLAIM.

These remarks provide notice of changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. These remarks should be removed as having served their notice purposes.

3. For claim 43B 190476-00, the Preliminary Decree states that the point of diversion is:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SENWNW	26	3S	9E	PARK

Reservoir: OFFSTREAM

NWNESW	14	3S	9E	PARK
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Reservoir: OFFSTREAM

SWNWNE	14	3S	9E	PARK
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Reservoir: OFFSTREAM

SWSESE	11	3S	9E	PARK
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Reservoir: OFFSTREAM

SWSWSW	14	3S	9E	PARK
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The point of diversion should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SENWNW	26	3S	9E	PARK

Reservoir: OFFSTREAM

NWNESW	14	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

SWNWNE	14	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

SWSESE	11	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

SWSWSW	14	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

NWNWNW	26	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

SWNWSW	23	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

NENWSW	14	3S	9E	PARK
--------	----	----	----	------

Reservoir: OFFSTREAM

NENESW	14	3S	9E	PARK
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The issue remark concerning the existence of the reservoir should be removed as addressed and resolved.

The Preliminary Decree states that the place of use is:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
E2NENE	27	3S	9E	PARK
W2NWNW	26	3S	9E	PARK
W2SWSW	23	3S	9E	PARK
W2NWSW	23	3S	9E	PARK
W2SWNW	23	3S	9E	PARK
SWNWNW	23	3S	9E	PARK
SENWNW	23	3S	9E	PARK
NWNWNW	23	3S	9E	PARK
E2SESE	22	3S	9E	PARK
E2NESE	22	3S	9E	PARK
NESENE	22	3S	9E	PARK
SESENE	22	3S	9E	PARK
NENENE	22	3S	9E	PARK
SENE	22	3S	9E	PARK
SWSW	14	3S	9E	PARK
W2SESW	14	3S	9E	PARK
NWSW	14	3S	9E	PARK

NESW	14	3S	9E	PARK
E2SWNW	14	3S	9E	PARK
SENW	14	3S	9E	PARK
NENW	14	3S	9E	PARK
SWNE	14	3S	9E	PARK
NWNE	14	3S	9E	PARK
W2NENE	14	3S	9E	PARK
SESWSE	11	3S	9E	PARK
NESWSE	11	3S	9E	PARK
NWSESE	11	3S	9E	PARK
SWSESE	11	3S	9E	PARK

The place of use should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NWNW	26	3S	9E	PARK
E2NENE	27	3S	9E	PARK
E2SESE	22	3S	9E	PARK
E2NESE	22	3S	9E	PARK
SWNENE	22	3S	9E	PARK
W2SWSW	23	3S	9E	PARK
W2NWSW	23	3S	9E	PARK
SWNW	23	3S	9E	PARK
NWNW	23	3S	9E	PARK
SWSW	14	3S	9E	PARK
W2SESW	14	3S	9E	PARK
NESESW	14	3S	9E	PARK
E2NWSW	14	3S	9E	PARK
NESW	14	3S	9E	PARK
W2NWSE	14	3S	9E	PARK
E2SENW	14	3S	9E	PARK
SWSENW	14	3S	9E	PARK
W2SWNE	14	3S	9E	PARK
SENWNE	14	3S	9E	PARK
E2NWNE	14	3S	9E	PARK
W2NENE	14	3S	9E	PARK
SWSESE	11	3S	9E	PARK
SESWSE	11	3S	9E	PARK

The Preliminary Decree also includes the following notice remarks on the abstract of this claim:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. THE CLAIMED PLACE OF USE ABOVE THE RESERVOIRS ON TRAIL CREEK IS IN QUESTION.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

These remarks provide notice of changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. These remarks should be removed as having served their notice purposes.

CONCLUSIONS OF LAW

1. As the requested amendment of the place of use for claim 43B 190475-00 is a reduction, this amendment does not adversely affect other water rights. Notice by publication of this amendment is not required. Section 85-2-233(6), MCA.
2. The requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).
3. The Information To Resolve Issue Remarks and the Motion To Correct Point Of Diversion For 43B 190475-00 are sufficient to contradict and overcome the prima facie claims as they appeared in the Preliminary Decree and sufficient to resolve the issue remarks without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above, this Master recommends that the Court grant the motion to amend claim 43B 190475-00 and the Motion To Correct Point Of Diversion For 43B 190475-00, and make the changes to both claims specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Email:

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 190475-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DEPUY ENTERPRISES LLC
PO BOX 1184
LIVINGSTON, MT 59047

TOUCH OF PARADISE LLC
4810 US HWY 89 S
LIVINGSTON, MT 59047 9170

Priority Date: APRIL 26, 1957

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Flow Rate: 2,244.00 GPM

Volume: 3,900.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESESE	22	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DIVERSION DAM					
2		NWNW	26	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	INSTREAM					
3		E2NENE	27	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	INSTREAM					
4		E2SESE	22	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	INSTREAM					
5		E2NESE	22	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	INSTREAM					
6		SWNENE	22	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	INSTREAM					

7	W2SWSW	23	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
8	W2NWSW	23	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
9	SWNW	23	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
10	NWNW	23	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
11	SWSW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
12	W2SESW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
13	NESESW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
14	E2NWSW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
15	NESW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
16	W2NWSE	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
17	E2SENW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
18	SWSENW	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
19	W2SWNE	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				
20	SEWNNE	14	3S	9E	PARK
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	INSTREAM				

21	E2NWNE	14	3S	9E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: INSTREAM					

22	W2NENE	14	3S	9E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: INSTREAM					

23	SWSESE	11	3S	9E	PARK
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: INSTREAM					

24	SESWSE	11	3S	9E	PARK												
Period of Diversion: JANUARY 1 TO DECEMBER 31																	
Diversion Means: INSTREAM																	
INSTREAM AND CANALS																	
Reservoir: OFFSTREAM																	
<table><tr><td><u>Govt Lot</u></td><td><u>Qtr Sec</u></td><td><u>Sec</u></td><td><u>Twp</u></td><td><u>Rge</u></td><td><u>County</u></td></tr><tr><td></td><td>SWSESE</td><td>11</td><td>3S</td><td>9E</td><td>PARK</td></tr></table>						<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>		SWSESE	11	3S	9E	PARK
<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>												
	SWSESE	11	3S	9E	PARK												
Diversion to Reservoir: DIVERSION # 1																	
Reservoir: OFFSTREAM																	
<table><tr><td><u>Govt Lot</u></td><td><u>Qtr Sec</u></td><td><u>Sec</u></td><td><u>Twp</u></td><td><u>Rge</u></td><td><u>County</u></td></tr><tr><td></td><td>SEWNNE</td><td>14</td><td>3S</td><td>9E</td><td>PARK</td></tr></table>						<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>		SEWNNE	14	3S	9E	PARK
<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>												
	SEWNNE	14	3S	9E	PARK												
Diversion to Reservoir: DIVERSION # 1																	
Reservoir: OFFSTREAM																	
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<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>												
	NENESW	14	3S	9E	PARK												
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Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNWNW	26	3S	9E	PARK

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWNW	26	3S	9E	PARK
2			E2NENE	27	3S	9E	PARK
3			E2SESE	22	3S	9E	PARK
4			E2NESE	22	3S	9E	PARK
5			SWNENE	22	3S	9E	PARK
6			W2SWSW	23	3S	9E	PARK
7			W2NWSW	23	3S	9E	PARK
8			SWNW	23	3S	9E	PARK
9			NWNW	23	3S	9E	PARK
10			SWSW	14	3S	9E	PARK
11			W2SESW	14	3S	9E	PARK
12			NESESW	14	3S	9E	PARK
13			E2NWSW	14	3S	9E	PARK
14			NESW	14	3S	9E	PARK
15			W2NWSE	14	3S	9E	PARK
16			E2SENW	14	3S	9E	PARK
17			SWSENW	14	3S	9E	PARK
18			W2SWNE	14	3S	9E	PARK
19			SEWNNE	14	3S	9E	PARK
20			E2NWNE	14	3S	9E	PARK
21			W2NENE	14	3S	9E	PARK
22			SWSESE	11	3S	9E	PARK
23			SESWSE	11	3S	9E	PARK

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 190476-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DEPUY ENTERPRISES LLC
PO BOX 1184
LIVINGSTON, MT 59047

TOUCH OF PARADISE LLC
4810 US HWY 89 S
LIVINGSTON, MT 59047 9170

Priority Date: APRIL 26, 1957

Type of Historical Right: FILED

Purpose (use): FISH AND WILDLIFE

***Flow Rate:** 160.00 CFS

***Volume:** 85,000.00 AC-FT

Source Name: UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENWNW	26	3S	9E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSESE	11	3S	9E	PARK

Diversion to Reservoir: DIVERSION # 1

Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNE	14	3S	9E	PARK

Diversion to Reservoir: DIVERSION # 1

Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENESW	14	3S	9E	PARK

Diversion to Reservoir: DIVERSION # 1

Reservoir: OFFSTREAM

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	NENWSW	14	3S	9E	PARK

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